1944.

File No. O Growth of Foodcrops/44
Legal Department
A BRANCH

Subject:-

Opinions under the Bombay - Growth of Foodcrops Act, 1944

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	C.Growth of feodcrops 1944.	Opinions under the Bombay Growth of food Crops Act.1944.	
1)	41-L. 26-7-44.	Issue of executive instructions to the effect that as far as the mixture of wheat & Safflower in the Dharwar Distt. is concerned the areas under Wheat & Safflower should be calculated in accordance with the instructions in para. 2 on pp.173-174 Revenue Accounts Manual.	1-2.

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Office of the R.L.A.

Explanation to section 3 of the Bombay Growth of Feedcrops Act, 1944, provides that where a Scheduled feedcrop is grown as a mixed crop with any crop other than a scheduled feedcrop the area under such Scheduled feedcrop shall, for the purposes of this section be deemed to be not more than 1/4 of the total area under such mixed crop. A similar "explanation" exists in section 4 also As regards point (5), the Deputy Director of Agriculture states that "The members contended that in a crop of wheat with safflower as a row crop, the "Explanation as it stands would mean that the area occupied by wheat be 1/4th and safflower be 3/4th which cannot be the intention of Government." The Secretary, R.D considers that this is a genuine difficulty, ~~the Secretary, R.D. suggests that~~ So far as Dharwar is concerned. To get over the difficulty, the secretary, R.D. suggests that executive instructions may issue to the effect that "so far as the mixture of wheat and safflower in the Dharwar district is concerned the areas under wheat and safflower should be calculated in accordance with the instructions in para. 2 on Pages 173-174 of the Revenue Accounts Manual and not reduced to one-fourth of the total area under a mixed crop under the Explanation under sections 3 and 4". The R.L.A. is requested to advise whether there is any legal objection to the issue of the proposed executive instructions.

2. "Cultivator s holding" as defined in section 2(2) of the Bombay Growth of Feedcrops Act, 1944, means the aggregate of all lands in the actual possession of a cultivator. Section 3 empowers Government to prescribe maintenance of existing proportion of growing feedcrops and section 4 to prescribe the maximum proportion of non feedcrops, and minimum proportion of feedcrops to be grown. Explanation to both sections provides: "Where a scheduled feedcrop is grown as a mixed crop with any crop other than a scheduled feedcrop, the area under such scheduled feedcrop shall for the purposes of this section, be deemed to be not more than 1/4 of the

1/4 of the total area under~~xxxxxxxx~~ such mixed crop" Section 7 lays down that the Provincial Government may wholly or partially exempt any cultivater's holding or class of such holdings from all or any of the provisions of this Act or any order made thereunder. Reading these provisions together it appears that Government will have power to exempt from the provisions of either section 3 or section 4 or both the lands under mixed crops of wheat and safflower in the part of the District of Dharwar to which the Act is applied; but that is not the intention of the present proposal. It is true that Explanation to sections 3 and 4 forms part thereof but the Explanation prescribes only mode of calculation of the area under a scheduled crop and a non-scheduled crop in cases where a scheduled foodcrop is grown as a mixed crop with any non-scheduled crop. No other alteration made of calculation is prescribed under the Act. The court would not be bound by any other mode prescribed by Government by executive orders. Consequently the executive instructions proposed by the Secretary, R.D. would not be legal and the cultivaters would not be saved from the consequences of breach of section 3 or section 4 as the case may be if the proportion of the scheduled foodcrop area on basis of such executive instructions falls short of the area required by law. The proposal made by the Secretary, R.D. is not legally feasible. To achieve the object in view either the Act must be amended suitably or else land under safflower and wheat as a mixed crop must be exempted under section 7 from orders under section 3 or 4.

Sd/- P.N.MOOS.
26/7/44.

Remembrancer of Legal Affairs.

U.R. to R.D., No. 41-L , dated the 26th July 1944.

SNT/5.7.